

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 5-2018

**AUTHORIZING A THIRD AMENDMENT TO THE PERSONAL SERVICES
CONTRACT WITH MJM MANAGEMENT GROUP, A CALIFORNIA
CORPORATION, TO EXTEND THE TERM BY ONE YEAR WITH UP TO TWO, ONE-
YEAR EXTENSIONS AT THE DISCRETION OF THE CITY AND COUNTY OF SAN
FRANCISCO FOR A MANAGEMENT FEE OF \$170,469, WITH A TOTAL
AGGREGATE MANAGEMENT FEE NOT TO EXCEED \$1,393,889, FOR PROPERTY
MANAGEMENT SERVICES AT YERBA BUENA GARDENS; FORMER YERBA
BUENA CENTER REDEVELOPMENT PROJECT AREA**

WHEREAS, The Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, (the “Former Agency”) was dissolved on February 1, 2012 pursuant to California Health and Safety Code Sections 34170 et seq. (the “Redevelopment Dissolution Law”), which vested in successor agencies certain authority, rights, powers, duties, and obligations to complete work related to approved enforceable obligations and to wind down redevelopment activities; and,

WHEREAS, Under Redevelopment Dissolution Law, the Successor Agency succeeded to the organizational status of the Former Agency and assumed all enforceable obligations of the Former Agency, including ownership of the Former Agency’s real property in the former Yerba Buena Center Redevelopment Project Area D-1 (the “Former YBC Project Area”). See also San Francisco Ordinance No. 215-12 (Oct. 4, 2012) (establishing the Successor Agency Commission (“Commission”) and delegating to it state authority under the Redevelopment Dissolution Law); and,

WHEREAS, As a result of these legislative acts the Successor Agency (1) became a separate public entity from the City and County of San Francisco (the “City”), and (2) owns and operates certain real property commonly known as Yerba Buena Gardens (the “Gardens”), which is located within the YBC Project Area; and,

WHEREAS, On July 1, 2009, the Former Agency and MJM Management Group, a California corporation (“Contractor”) entered into a three-year personal services contract for property management services for the Gardens with one three-year option to extend (the “Original Contract”). The Original Contract was amended in August 2010 to update insurance, indemnification, and equal opportunity provisions (the “First Amendment”). In May 2012, in accordance with the terms of the Original Contract, the Executive Director extended the term to June 30, 2015. The Original Contract and First Amendment were amended by Resolution 27-2015 adopted by the Successor Agency on May 5, 2015 to extend the term for an additional (3) three years until June 30, 2018 (the “Second Amendment”). Together, the Original Contract, the First Amendment, the Second Amendment, and this Third Amendment comprise the “Contract;” and,

WHEREAS, Redevelopment Dissolution Law requires successor agencies to former redevelopment agencies to dispose of their real property assets under a Long-Range Property Management Plan (“PMP”). Cal. Health and Safety Code, § 34191.5. On December 7, 2015, the State Department of Finance (“DOF”) approved, under the Redevelopment Dissolution Law, the Successor Agency’s PMP, which the Oversight Board of the City and County of San Francisco (“Oversight Board”) had previously approved by Oversight Board Resolution No. 14-2015 (Nov. 23, 2015). The PMP establishes a plan to transfer the entirety of the Former Agency’s real property assets known as Yerba Buena Gardens, including the Center, to the City for a governmental purpose. Oversight Board Resolution No. 14-2015 authorizes OCII, upon approval of the PMP, to take all actions as needed, to the extent permitted under applicable law, to implement the PMP; and,

WHEREAS, OCII Resolution 27-2015 contemplated that in the event that (1) the Gardens have not transferred to the City before June 30, 2018, or (2) the Gardens have transferred to the City and the City has not had sufficient time to undertake a public solicitation process for property management services, the City and/or the Successor Agency may consider, among other options extending the contract term for a limited term, which will be determined prior to the expiration of the Contract; and,

WHEREAS, As required under Redevelopment Dissolution Law, Cal. Health & Safety Code § 34181 (a) and the PMP, OCII and the City intend to transfer the Gardens assets from OCII to the City and, to facilitate the transfer, OCII intends to assign its rights, titles and interests in the Contract to the City. The City, as the future property owner, has requested this extension of the term to the Contract, which will (1) allow the City a transition period and ensure smooth ongoing operations of the Gardens, and (2) also provide the City, or its assignee, time to undertake a public solicitation process for Gardens property management services prior to the end of the Contract term; and,

WHEREAS, The proposed Third Amendment would extend the Contract for one additional year until June 30, 2019, with two one-year extensions that the City may exercise in its sole discretion; and,

WHEREAS, Under OCII's DOF-approved PMP, OCII has a continuing obligation to fund property management in the Gardens until it is transferred to the City. As such, this property management activity is an enforceable obligation. California Health Safety Code §34171(d)(1)(F) (defining enforceable obligations to include “[c]ontracts or agreements necessary for the administration or operation of the Successor Agency”). It is also part of the “winding down” of redevelopment agencies that is required under Redevelopment Dissolution Law. Section 34177.3 (b) of the California Health and Safety Code states that: “Successor agencies may create enforceable obligations to conduct the work of winding down the redevelopment agency, including hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance.” DOF-accepted enforceable obligations are found in an approved Recognized Obligation Payment Schedule (“ROPS”); and,

WHEREAS, The City, upon assumption of the Contract, intends to assume the cost of the Contractor's management fee for the one-year extension in the amount of \$170,469, which is subject to the funding provisions of the Contract, including the approval of the Gardens Fiscal Year 2018-2019 budget by the Board of Supervisors of the City and County of San Francisco. The source of funds for the management fee comes from revenue generated from existing short- and long-term commercial and ground leases, operating leases, and development exactions/fees in the Former YBC Project Area. This revenue source is restricted Community Development Block Grant ("CDBG") "Program Income" (as defined by Title 24 in the Code of Federal Regulations). According to an agreement with the U.S. Department of Housing and Urban Development, this Program Income may be used for operation, maintenance (including capital improvements); and,

WHEREAS, Extension of the Contract pursuant to this Third Amendment meets the sole source method requirements under Section IX.D.1.e of OCII's Purchasing Policy because OCII's assets and financial investments are at risk and the urgent need for appropriate property management of the Gardens will not permit the delay required to complete other procurement methods. In addition, the Contractor has previously provided the needed services to OCII and in doing so has performed satisfactorily and has gained specific information and experience making them uniquely qualified to provide the needed services per Section IX.D.1.d. of OCII's Purchasing Policy; and,

WHEREAS, Staff recommends authorization of the Third Amendment to the Contract; and,

WHEREAS, Authorization of the Third Amendment to provide property management services at the Gardens is a Successor Agency administrative activity that will not have any direct physical effects on the environment and is not a "Project" as defined in California Environmental Quality Act ("CEQA"), Guidelines Section 15378(b)(5). The Third Amendment will allow and fund property management services at YBG and will not result in direct or indirect physical changes in the environment; now therefore, be it

RESOLVED, That the Executive Director of the Successor Agency is authorized to execute a Third Amendment to the Contract with MJM Management Group, a California corporation, substantially in the form of the Third Amendment on file with the Secretary of this Commission, to extend the term of the Contract by one year for an amount not to exceed \$170,496, with a total aggregate management fee not to exceed \$1,393,889, for property management services at the Gardens, and to make other minor modifications to the Contract, in the form approved as to form by the Successor Agency's General Counsel.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of March 20, 2018.

Commission Secretary